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09/134,799	08/14/1998	BRUCE MIHURA		8450

7590 11/22/2004  
BRUCE MIHURA  
6302 COLINA LANE  
AUSTIN, TX 78759

EXAMINER

PSITOS, ARISTOTELIS M

ART UNIT	PAPER NUMBER
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2653

DATE MAILED: 11/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/134,799	<b>Applicant(s)</b> MIHURA, BRUCE	
	<b>Examiner</b> Aristotelis M Psitos	<b>Art Unit</b> 2653	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 08 October 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-59 and 62-83 is/are pending in the application.
- 4a) Of the above claim(s) 2,4-28,31-34,36,62 and 66-74 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3,29,30,35,37-59,63-65 and 75-83 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

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### **DETAILED ACTION**

#### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10/8/04 has been entered.

#### ***Information Disclosure Statement***

With respect to the previous OA and the IDS submitted, after reviewing the papers, applicants' representative's indication that the IDS was to another application is correct. This IDS has been omitted from this file.

With respect to applicant's indication that the references to Jo, Wyler and DorEl have no previous identification, the examiner submits that these references were cited on the accompanying 892 form with the OA mailed on 5/7/01. Hence the documents are indeed of record. Attached hereto is a duplicate copy of the 892 of that date.

Due to the plethora of pending claims, the examiner has endeavored to group/analyze the pending claims as follows:

Section I. Claims 1, 45 and 75. Paraphrasing the language of these claims as follows:

claim 75 an audio entertainment system – comprising:

- a) chassis with a front side
- b) one audio output (at least)
- c) non-volatile random access storage system ---

wherein --- is substantially permanently affixed inside the chassis and is not readily removable from the chassis

- d) user interface system with a display

wherein the audio entertainment system has an appearance, which approximates standard audio equipment.

Section II. Claim 1 includes all of the elements of claim 75, plus the following:

- e) one audio input (at least one)
- f) user interface control system

wherein: c is operable to store audio information, d is adapted to receive user input to select one or more musical pieces, f is operable to receive user input and control c to provide an output to b.

Section III. Claim 45 includes all of the elements of claim 75, with a variance of the phraseology in the previous independent claim 1 (one or more audio inputs), user interface system as opposed to user interface control system, and the ultimate wherein clause.

Section IV. The following claims depend from claim 75:

- D) Claims 76, further require c to be rewritable.
- E) Claim 77, further requires c to be operable to receive and store audio information.
- F) Claim 78, introduces element a (claim 1) and such are in or located on the chassis.
- G) Claim 79, repeats claims 78 and 77.
- H) Claim 80, repeats claim 77 further requiring a plurality of musical pieces.
- I) Claim 81, introduces the wherein clause of claim 45.
- J) Claim 82, requires the display to "display substantially only status information...".
- K) Claim 83, requires the stored information on c indicative of currently stored musical pieces.

Section V. The following dependent claims are grouped as follows:

- 1) claims: 3 and 47 – c stores a plurality of contents directories & f uses such.
- 2) claims: 29 and 48 - c stores A CONTENT directory (singular) & f uses such.
- 3) claims: 30 and 49 – c is operable to store one or more play lists.
- 4) claims: 35 and 50 – a first mode of operation is identified.
- 5) claims 37,39, 51 and 53 – status inform. Includes what is being played.

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- 6) claims: 38 and 52 – displaying current time.
- 7) claims: 40 and 55 – currently stored musical information.
- 8) claims: 41 and 56 – the system is “substantially only operable for storage and playback of musical pieces”.
- 9) claims: 42 and 57 – the display of d , “has an appearance which approximates standard audio equipment”.
- 10) claims: 44 and 59 – d has a mute button.
- 11) claims: 54 and 82 – see J above.

Section VI. The following dependent claims are discussed:

- 12) claim 43: a has a first portion which is acoustically insulated.
- 13) claim 46 – similar to element f in claim 1; however, it does NOT control any input function.
- 14) claim 58 – a is “practicably acoustically shielded”.
- 15) claim 63 - e includes a “port” for receiving a signal.
- 16) claim 64 – identifies the signal of the port as analog.
- 17) claim 65 – identifies the signal of the port as digital.

From the above the following position(s) are taken.

#### ***Response to Arguments***

Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection as detailed below.

#### ***Claim Objections***

Claims 37 & 39 and 51 and 53 are objected to because of the following informalities: Since claim 37 identifies the status information, and claim 1 already displays such, the limitation(s) of claim 39 would appear as duplicative. Similar analysis is made with respect to claims 51 and 53. Further clarification is respectfully requested.

***Claim Rejections - 35 USC § 112***

Claims 45-59,62-65 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

As best understood, and comparing the functions of the user interface control system of these claims with that of independent claim 1 leads the examiner to conclude that there is NO INPUT CONTROL capability in these claims. Hence the non-volatile random-access storage system cannot operate to receive and store any input information from the audio inputs because such an operation would require (as disclosed) the interface control system to provide such a control .

Further elaboration is respectfully requested.

AS BEST UNDERSTOOD AND interpreted by the examiner, the following art rejections are made.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

1. Claims 75-82 are rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Ward further considered with Official notice.

Ward discloses an electronic device having (reference to the above analysis of the claims is recommended in understanding the rejection),

- a, identified as element 12 in fig. 1. It has a front side,
- b) output 26,
- c, element 30,
- d, user controls, display 28.

As understood from the disclosure – see the abstract for a synopsis, Ward's system performs as required by claim 75.

The examiner interprets element 30 as a HDD (hard disk drive) and since the slot 18 is for an insertable disc so as to be recorded thereon, concludes that such HDD is a "fixed" HDD. Fixed HDDs meet the claimed terminology with respect to "wherein the non-volatile random-access system is substantially permanently affixed inside the chassis and is not readily removable from the chassis" as now claimed.

Alternatively, if applicant can convince the examiner that the HDD in Ward is not "fixed", then under 103 considerations, the examiner would take Official notice of such conventional fixed HDDs as being well known, that is HDDs are either fixed, or not fixed (removable).

It would have been obvious to modify the base system of Ward with the well known (Official notice) of fixed HDDs, motivation is to increase the reliability of the overall system by reducing the influence of environmental contamination of the medium by dust. That is removable HDD is less reliable.

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With respect to claim 76, the disc is rewritable.

With respect to claim 77, such is the case.

With respect to claim 79, element 22 – audio input(s).

With respect to claim 80, since the information is for audio, the examiner concludes that there is a plurality of musical pieces, i.e., as normally understood, a cd record has a plurality of tracks, and each track is for an individual song, musical piece.

With respect to claim 81, the user control in the Ward system is adapted as required by this claim.

With respect to claim 82, the display 28 displays “status information”. The examiner interprets the display to be “only” status information of the system information and information regarding the audio information stored in the record HDD –see col. 2 lines 20-24.

2. Claims 1, 37,39,41 and 42 are rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Ward further considered with Official notice.

Ward is analyzed as above with respect to claim 75. As outlined above in section II, claim 1 also includes at least one audio input and f, a user interface control system.

Element 22 meets limitation e, while the microcomputer element 34 is interpreted by the examiner to meet element f.

The reliance upon Ward is as stated above in paragraph 1.

With respect to claims 37 and 39 the status display is interpreted so as to include status information, see col. 2, lines 22-24.

With respect to claim 41, such is the case, i.e., the system of Ward is “substantially only operable for storage and playback of musical pieces”, where the examiner interprets “audio” as musical pieces.

With respect to claim 42, such is the case, i.e., the display “has an appearance which approximates standard audio equipment”.

3. Claims 45-46,51,53,54,56 and 57 are rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Ward further considered with Official notice.



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With respect to claim 45, see the above analysis of such a claim as stated in section III above.

Hence the examiner concludes that Ward meets the limitations recited therein.

With respect to claim 46, the examiner concludes that the interface control system so operates.

With respect to claims 51 and 53, see the above analysis in section V paragraph 5.

With respect to claim 54 see the above analysis in section V paragraph 11.

With respect to claims 56 and 57, see the above analysis/grouping in section V paragraphs 8 & 9.

***Claim Rejections - 35 USC § 103***

4. Claims 3,29 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claim 1 above, and further in view of Yoshida et al.

With respect to claim 3,

Yoshida et al teach in an audio system the additional ability to store a plurality of directories – contents found in the TOC thereof – which as interpreted by the examiner contains at least song title, (music names), record disc title, etc. and there are interpreted as the “common characteristics” recited in claim 3. Furthermore, Yoshida et al provide for additional ability of accessing whatever title/record desired by the user using these TOC's.

With respect to claims 29 and 30,

It is noted that although claims 29 and 30 do not recite “common characteristics”, the remaining limitations of these claims are met as discussed above with respect to claim 3. Applicant's attention is further drawn to col. 4 line 11 to col. 14 line 29 for the operation/discussion thereof.

It would have been obvious to modify the base system as stated above with respect to claim 1 with the above additional teaching from Yoshida et al, motivation is to provide the user with a more robust system so as to recognize/keep tab of what musical pieces are stored in the system.

5. Claim 35 is rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claim 1 above, and further in view of the acknowledged prior art – see MPEP section 2144.03 (C).

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Claim 35 calls for a first mode of operation – continuous recording. The base reference provides the ability to record the information, i.e., a record function. The examiner interprets the Ward reference so as to inherently meet such functionality.

Alternatively, if applicant can convince the examiner that the primary reference fails to provide for such a “continuous storing” ability as recited, then the examiner concludes that such a capability as being well known. In the recording arts, the ability to store (continuously) the incoming information. Much like time recording, well known by users with VCRs (video cassette recorders) upon instructing the recorder to “record”. Such recording is then continuously stores the incoming information until the user terminates the procedure.

It would have been obvious to modify the base system of Ward with the above known recording capabilities and provide the user with the flexibility of continuously storing the incoming information.

6. Claim 38 is are rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claim 1 above, and further in view of Aramaki.

The ability of having a display for displaying current time is not clearly depicted in Ward.

Nevertheless, the ability of having such a time display in this environment is taught by the Aramaki document.

It would have been obvious to modify the base system of Ward with the above additional teaching from Aramaki, motivation is to provide the user with a time display for his information.

7. Claim 40 is are rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claim 1 above, and further in view of Yankowski.

There is no clear description in Ward that the information stored “comprises information regarding musical pieces currently stored” in the storage system. The examiner interprets such as either a play list or inventory/directory information.

Yankowski teaches the ability of having a playlist – see figure 5 and its description starting at col. 9 lines 20 plus.

It would have been obvious to modify the base system of Ward with the additional ability of providing the appropriate information regarding what cds/audio/music information is presently found in the

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HDD. Such an ability increases the robustness of Ward so as to permit the user a user-friendly listing of what is what.

8. Claim 43 is are rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claim 1 above, and further in view of Jo/Wyler.

There is no disclosure of any acoustical shielding in the Ward system.

The references to either Jo or Wyler teach the ability of acoustically shielding in this environment.

It would have been obvious to modify the base system of Ward with the teaching from either Jo or Wyler, motivation is to yield a dampening of any interfering noise and hence adding to the ambiance of the system/users environment.

9. Claim 44 is are rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claim 1 above, and further in view of Tanner.

There is no clear depiction of a mute button in Ward.

The availability of "mute" control (button) is taught by Tanner.

It would have been obvious to modify the base system of Ward with such an ability, motivation is to provide the user with a more flexible environment, i.e., permitting the user to selectively silence the audio output as desired for the occurrence of particular events.

10. Claims 47,48 and 49 are rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claim 45 above, and further in view of Yoshida et al.

Claims 47,48 and 49 are similar in limitations with respect to claims 3,29,30 as identified in section V paragraphs 1,2, and 3 above.

The examiner relies upon the reasoning stated in paragraph 4 above in rejecting these claims.

11. Claims 50 is rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claim 45 above, and further in view of Aramaki.

With respect to the entertainment system has a first mode operable to yield a "continuously store"

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function, Ward does not expressly disclose such.

Aramaki discloses in this environment the ability of having a "record" button, and a separate "stop" button. The examiner interprets the ability of the user to engage the record button as the first mode, and such permits the ---continuously storing--- of information onto the record medium.

It would have been obvious to modify the base system of Ward to provide for such a recording mode of operation, such permits an open ended recording session, which yields a more robust system.

12. Claim 52 is rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claim 45 above, and further in view of Aramaki.

The ability of having a display for displaying current time is not clearly depicted in Ward.

Nevertheless, the ability of having such a time display in this environment is taught by the Aramaki document.

It would have been obvious to modify the base system of Ward with the above additional teaching from Aramaki, motivation is to provide the user with a time display for his information.

13. Claim 55 is rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claim 45 above, and further in view of Yankowski.

See the above analysis of section V paragraph 7 above with respect to the limitations of this claim.

There is no clear description in Ward that the information stored "comprises information regarding musical pieces currently stored" in the storage system. The examiner interprets such as either a play list or inventory/directory information.

Yankowski teaches the ability of having a playlist – see figure 5 and its description starting at col. 9 lines 20 plus.

It would have been obvious to modify the base system of Ward with the additional ability of providing the appropriate information regarding what cds/audio/music information is presently found in the

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HDD. Such an ability increases the robustness of Ward so as to permit the user a user-friendly listing of what is what.

14. Claim 58 is are rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claim 1 above, and further in view of Jo/Wyler.

With respect to this limitation is the above analysis in section VI paragraph 14.

There is no disclosure of any acoustical shielding in the Ward system.

The references to either Jo or Wyler teach the ability of acoustically shielding in this environment.

It would have been obvious to modify the base system of Ward with the teaching from either Jo or Wyler, motivation is to yield a dampening of any interfering noise and hence adding to the ambiance of the system/users environment and hence "practicably acoustically shielding" the chassis.

15. Claim 59 is are rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claim 1 above, and further in view of Tanner.

See the above section V paragraph 10 for the limitations of this claim.

There is no clear depiction of a mute button in Ward.

The availability of "mute" control (button) is taught by Tanner. It would have been obvious to modify the base system of Ward with such an ability, motivation is to provide the user with a more flexible environment, i.e., permitting the user to selectively silence the audio output as desired for the occurrence of particular events.

16. Claims 63-65 are rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claim 45 above and further in view of Kenwood model VR-209. As noted in the write up with respect to this element, it has a plurality or inputs as recited.

Ward provides for an input.

The Kenwood model VR 209 as described teaches the ability of providing for a plurality of inputs to an electronic device.

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It would have been obvious to modify the base system of Ward with this additional teaching, thereby increasing the flexibility of Ward so as to provide for a variety of inputs for subsequent storage.

**Conclusion**

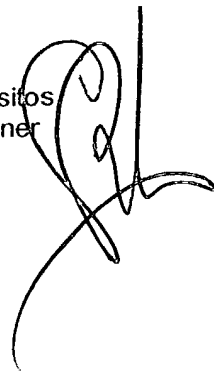
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Yoshida – previously cited 5,689, 704 – see the various display/controls depicted on the front face of an electronic device.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aristotelis M Psitos whose telephone number is (703) 308-1598. The examiner can normally be reached on M-Thursday 8 - 4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William R. Korzuch can be reached on (703) 305-6137. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Aristotelis M Psitos  
Primary Examiner  
Art Unit 2653



AMP